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and CAB Enterprises, Inc.*

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

SUEROS & BEBIDAS REHIDRATANTES
S.A. de C.V., a Mexican company, and CAB
ENTERPRISES, INC., a Delaware
corporation,

Case No. 2:24-cv-10102

COMPLAINT

JURY DEMAND

Plaintiffs.

VS.

Eduardo Lopez, Ivonne Munoz, Manuel Vazquez, Yvonne Mesinas, Surtimex LLC, a California limited liability company, V&S Investment Group, Surtimex Global Inc., a California corporation Distribuidora Vitian, S.A. de C.V., a Mexican company, Leni's Industries, Inc., a California corporation, and DOES 1-10

Defendants.

COMPLAINT

1 Plaintiffs Sueros & Bebidas Rehidratantes, S.A. de C.V. (“Sueros”) and CAB
 2 Enterprises, Inc. (“CAB”) (collectively “Plaintiffs”), by their attorneys and for their
 3 Complaint against Defendants Eduardo Lopez, Ivonne Munoz, Manuel Vazquez, Yvonne
 4 Mesinas, Surtimex LLC, V&S Investment Group, Surtimex Global Inc., Distribuidora
 5 Vitian S.A. de C.V., and Leni’s Industries, Inc., (collectively “Defendants”) and DOES
 6 1-10, allege and state as follows:

7 **NATURE OF THE ACTION**

8 1. This is an anti-confusion and brand protection action to stop the unlawful
 9 importation, distribution, and sale by Defendants of unauthorized and materially different
 10 versions of Plaintiffs’ Electrolit® premium hydration beverage.

11 2. Electrolit® is wildly popular in the U.S., where it is consumed by millions
 12 of U.S. consumers annually.

13 3. Unwitting U.S. consumers are being exposed to counterfeit, unlawful,
 14 mislabeled and/or unauthorized product being imported, distributed, advertised, offered
 15 for sale and sold by infringers that is materially different from the genuine product that
 16 is authorized for sale by Plaintiffs.

17 4. Defendants do not distribute and sell genuine U.S. Electrolit®. Instead,
 18 Defendants offer to sell, sell and distribute to U.S. retailers as well as U.S. end consumers
 19 unauthorized Electrolit-branded products that are materially different from genuine U.S.
 20 Electrolit® (“Unauthorized Electrolit”).

21 5. The Unauthorized Electrolit that Defendants are selling is not sourced
 22 through an authorized chain of distribution for the United States and Defendants are
 23 aware that Unauthorized Electrolit is not genuine product, that it is materially different
 24 from genuine U.S. Electrolit®, and that these differences are likely to cause confusion
 25 amongst the retailers and end consumers to whom they sell the product.

26 6. In addition, the Unauthorized Electrolit products that were sold and being
 27 offered for sale by Defendants are not compliant with United States Food and Drug

1 Agency (FDA) requirements and also contain ingredients that are not present in genuine
 2 U.S. Electrolit® and that are not identified on the labels.

3 7. Defendants have used and continue to use, Plaintiffs' Marks and Trade Dress
 4 (defined below) for Electrolit® in such a fashion to intentionally create a false impression
 5 among the consuming public that Defendants' goods originate with Plaintiffs or are
 6 sponsored, approved by, managed and/or affiliated with Plaintiffs, and are
 7 misrepresenting the origin and the quality of goods sold.

8 8. Plaintiffs have suffered and continue to suffer irreparable harm from
 9 Defendants' actions.

10 9. Defendants' activities are jeopardizing CAB's relations with its authorized
 11 sub-distributors. Defendants offer to sell and sell infringing Unauthorized Electrolit in
 12 the U.S. at prices that undercut genuine Electrolit®. As a result of unauthorized sales and
 13 distribution of Electrolit-branded products, CAB's authorized sub-distributors have
 14 threatened to stop selling genuine Electrolit®. As a result, CAB's relationships with its
 15 sub-distributors and potential new distributors are being irreparably harmed, and this
 16 unlawful conduct has prevented CAB from expanding its market.

17 10. The low price at which Defendants sell Unauthorized Electrolit is also both
 18 tarnishing the reputation of Plaintiffs and Electrolit® as a high quality and premium
 19 rehydration product and is causing an unsustainable race to the bottom on pricing that
 20 impacts Plaintiffs' ability to price their product fairly. Worse, once price erosion caused
 21 by Defendants becomes prevalent, it will likely prove impossible as a practical matter for
 22 Plaintiffs to raise prices back to pre-erosion levels and re-solidify Plaintiffs' brand as a
 23 high quality and premium rehydration product if Defendants' infringement is not stopped.

24 11. To stop this unlawful conduct and to recover the damages caused by it,
 25 Plaintiffs bring this action for injunctive and monetary relief.

THE PARTIES, JURISDICTION AND VENUE

27 12. Plaintiff Sueros is a Mexican company with its principal place of business

1 at Av. España No. 1840, Colonia Moderna, C.P. 44190, Guadalajara, Jalisco, Mexico.
2 Sueros is the owner of the Electrolit trademarks (listed below) and trade dress associated
3 with genuine U.S. Electrolit® described below.

4 13. Plaintiff CAB is a Delaware corporation with its principal place of business
5 at 3201 Allen Parkway, Suite 100, Houston, TX 77019. CAB is the exclusive licensee in
6 the United States for the trademarks and trade dress associated with genuine U.S.
7 Electrolit®.

8 14. Upon information and belief, Defendant Eduardo Lopez is an owner,
9 manager, member and/or holds a controlling and/or pecuniary interest of and in various
10 businesses, including Defendants Surtimex LLC, V&S Investment Group, Surtimex
11 Global Inc., and Distribuidora Vitian, S.A. de C.V. importing, offering to sell and selling
12 Unauthorized Electrolit. Eduardo Lopez resides at 7652 Coolgrove Dr., Downey,
13 California 90240 and has conducted business from 9740 Alburstis Ave., Santa Fe Springs,
14 California 90670, 1540 Beach St., Montebello, California 90640 and 8800 Slauson Ave.,
15 Pico Rivera, California 90660.

16 15. Upon information and belief Defendant Ivonne Munoz is an owner,
17 manager, member and/or holds a controlling and/or pecuniary interest of and in various
18 businesses, including Defendants Surtimex LLC and V&S Investment Group offering to
19 sell and selling Unauthorized Electrolit. Ivonne Munoz resides at 7652 Coolgrove Dr.,
20 Downey, California 90240 and is the wife of Defendant Eduardo Lopez.

21 16. Upon information and belief Defendant Yvonne Mesinas is an owner,
22 manager, member and/or holds a controlling and/or pecuniary interest of and in various
23 businesses, including Defendants Surtimex LLC and V&S Investment Group offering to
24 sell and selling Unauthorized Electrolit. Yvonne Mesinas resides at 12116 Alpine
25 Avenue, Lynwood, California 90262 and is the mother of Eduardo Lopez.

26 17. Upon information and belief Defendant Manuel Vazquez is an owner,
27 manager, member and/or holds a controlling and/or pecuniary interest of and in various
28

1 businesses, including Defendants Surtimex Global Inc., Distribuidora Vitian, S.A. de
 2 C.V., and Leni's Industries, Inc. offering to sell and selling Unauthorized Electrolit.
 3 Manuel Vazquez resides at 1801 Don Guillermo St., La Habrá, California 90631 and has
 4 conducted business from 9740 Alburtis Ave., Santa Fe Springs, California 90670, 1540
 5 Beach St., Montebello, California 90640 and 8800 Slauson Ave., Pico Rivera, California
 6 90660.

7 18. Defendant Surtimex LLC is a California limited liability company that, in
 8 records filed with the California Secretary of State, lists its principal address as 8800
 9 Slauson Ave., Pico Rivera¹, California 90660, lists Defendants Eduardo Lopez and Ivone
 10 Munoz as its managers or members and lists Defendant Ivone Munoz as its registered
 11 agent at 8800 Slauson Ave., Pico [Rivera], California 90660. Upon information and
 12 belief, Defendant Surtimex LLC has also conducted business from, and at the time used
 13 as its principal address, 9740 Alburtis Ave., Santa Fe Springs, California 90670 and 1540
 14 Beach St., Montebello, California 90640.

15 19. Upon information and belief, Defendant V&S Investment Group is an
 16 unregistered trade name used by a partnership formed by Defendants Eduardo Lopez and
 17 Manuel Vazquez. Defendant V&S Investment Group has used and conducted business
 18 from 9740 Alburtis Ave., Santa Fe Springs, California 90670 as its principal address.
 19 Upon information and belief, Defendant V&S Investment Group now uses and conducts
 20 business from 8800 Slauson Ave., Pico Rivera, California 90660 as its principal address.

21 20. Defendant Surtimex Global, Inc. is a California corporation that, in records
 22 filed with the California Secretary of State, lists its principal address as 9740 Alburtis
 23 Ave., Santa Fe Springs, California 90670, Manuel Vazquez as its manager or member,
 24 Secretary, Chief Financial Officer, Chief Executive Officer and Director and Victor M.
 25 Loyola is its registered agent 9740 Alburtis Ave., Santa Fe Springs, California 90670.

27 1 Although Surtimex LLC records list "Pico Revers" as its city of record, no such town
 28 exists in California. The 8800 Slauson Avenue address does exist in Pico *Rivera*,
 California.

1 Upon information and belief, Defendant Surtimex LLC has also conducted business from,
 2 and at the time used as its principal address, 1540 Beach St., Montebello, California
 3 90640. Defendant Surtimex Global, Inc. now uses and conducts business from 8800
 4 Slauson Ave., Pico Rivera, California 90660 as its principal address. Defendants Manuel
 5 Vazquez and Eduardo Lopez have ownership interests in Defendant Surtimex Global,
 6 Inc. and, upon information and belief, share control of that entity.

7 21. Upon information and belief, Defendant Distribuidora Vitian, S.A. de C.V.
 8 is a Mexican company and Defendants Manuel Vazquez and Eduardo Lopez have
 9 ownership interests in and share control of that entity. Defendant Distribuidora Vitian,
 10 S.A. de C.V. has used and conducted business from 9740 Alburstis Ave., Santa Fe Springs,
 11 California 90670 as its principal U.S. address. Upon information and belief, Defendant
 12 Distribuidora Vitian, S.A. de C.V. now uses and conducts business from 8800 Slauson
 13 Ave., Pico Rivera, California 90660 as its principal U.S. address.

14 22. Defendant Leni's Industries, Inc. is a California company that, in records
 15 filed with the California Secretary of State, lists its principal address as 1801 College
 16 Ave., Santa Ana, California 92706 and has Manuel Vazquez as its Chief Executive
 17 Officer, Chief Financial Officer, Secretary and Director. Victor M. Loyola is listed as its
 18 registered agent at 1801 College Ave., Santa Ana, California 92706. Defendant Leni's
 19 Industries, Inc. has conducted business at 1540 Beach St., Montebello, California 90640.

20 23. On information and belief, Defendants have used and continue to use the
 21 Electrolit® Marks (defined below) and Trade Dress (defined below) in commerce in
 22 connection with the offer for sale, sale and advertising of Unauthorized Electrolit without
 23 Plaintiffs' consent and knowingly induced and contributed to such use by others.

24 24. Upon information and belief, Defendants were on notice of their infringing
 25 conduct and therefore have committed and commit this infringement willfully and in bad
 26 faith, with actual knowledge of the infringing activity or at least with objective
 27 recklessness or willful blindness that its acts constituted, induced or contributed to

infringement.

25. This Court has jurisdiction because this is an action arising under the Trademark Act of 1946, as amended, 15 U.S.C. §§ 1051, et seq. (the Lanham Act), jurisdiction being conferred in accordance with 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338. This Court also has subject matter jurisdiction over this dispute under 28 U.S.C. § 1332(a)(1) because there is complete diversity of citizenship among the parties and the amount in controversy, exclusive of interest and costs, exceeds \$75,000. This Court also has jurisdiction for the claims made under California statutory and common law in accordance with the principles of supplemental jurisdiction pursuant to 28 U.S.C. § 1337.

26. This Court has personal jurisdiction of Defendants because, on information and belief, Defendants reside and/or have a principal place of business in the State of California and within this judicial district. Furthermore, on information and belief, Defendants have deliberately engaged in significant and continuous business activities within California. Accordingly, there are established minimum contacts with the Central District of California.

27. Venue is proper in this district under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims alleged herein occurred in this district, and under 28 U.S.C. § 1391(c), because Defendants are subject to this Court's personal jurisdiction for purposes of this case.

FACTUAL BACKGROUND

Genuine U.S. Electrolit®

28. Electrolit® was originally developed as a solution for dehydration in children, a crucial need during a wave of cholera striking Mexico at the time. The photograph below shows early Electrolit® product.



8 29. Over the years, Electrolit® has proven to be a wildly successful product
9 among children and adults. In 2014, CAB was formed in the United States and became
10 the exclusive, master authorized distributor in the United States for Electrolit® product.
11 In connection therewith, CAB was granted a license to the trademarks, copyrights and
12 trade dress associated with genuine U.S. Electrolit® described below and was tasked with
13 translating the overwhelming success of Electrolit® in Mexico into a similar dominance
14 in the U.S. market.

15 30. CAB is responsible for the marketing, labelling, and distribution of
16 Electrolit® products in the United States.

17 31. CAB takes that responsibility seriously by ensuring that the contents,
18 packaging, and labelling of Electrolit® in the United States comply with U.S. laws and
19 regulations; by subjecting its products to rigorous quality control standards; and by
20 providing high-quality post-sale services to its customers. Those practices correspond
21 with the preference of U.S. customers, who consider products to be higher quality when
22 they comply with U.S. laws and regulations, are formulated to match U.S. consumer
23 tastes, and feature the post-sale services that CAB provides. CAB continues to monitor
24 the market by receiving consumer inquiries, tracking and investigating complaints,
25 addressing spoilage issues, and performing necessary actions in response to such issues,
26 including by conducting recalls or initiating legal proceedings. These activities have
27 ensured continued goodwill for the Electrolit® trademark and the investment that CAB
28

1 and its sub-distributors have made in creating consumer demand for Electrolit®.

2 32. Today, CAB distributes genuine U.S. Electrolit® to consumers through
 3 several channels, including online through retailers such as Amazon as well as through
 4 supermarkets, convenience stores and all grocery store formats.

5 33. Genuine U.S. Electrolit® is currently sold in several flavors, including
 6 Orange, Fruit Punch, Grape, Strawberry Kiwi, Berry Bliss, Strawberry, Lemon-Lime,
 7 Hibiscus/Jamaica, Guava, Coconut and Apple.

8 34. CAB sells Electrolit® directly to retailers and through a network of
 9 authorized sub-distributors that distribute Electrolit® through the United States, including
 10 in California. By carefully evaluating its authorized sub-distributors, CAB ensures that
 11 its products are distributed by business partners that are similarly invested in developing
 12 and safeguarding the goodwill associated with genuine Electrolit®. If an authorized sub-
 13 distributor fails to provide the high-quality services that CAB expects, CAB takes
 14 corrective measures.

15 35. Sueros is the owner of the following “Electrolit” trademarks (U.S. Reg. Nos.
 16 4,222,726; 4,833,885; 4,717,350; 4,717,232) and CAB is the exclusive licensee in the
 17 United States of these registered trademarks (collectively, the “Marks”), one or more of
 18 which appear on packaging and advertisements for all genuine U.S. Electrolit® products:

Mark	U.S. Reg. No.	Reg. Date	Relevant Goods
	4222726	Oct. 9, 2012	Class 5: Electrolyte replacement solution for oral rehydration. Class 32: Oral rehydration beverages, namely, sports drinks.
“ELECTROLIT”	4833885	Oct. 13, 2015	Class 5: Pharmaceutical products, namely, electrolyte replacement solutions; veterinary products, namely, dog, horse, pig, cat, bird, and ruminant food, bacterial and

Mark	U.S. Reg. No.	Reg. Date	Relevant Goods
			<p>bacteriological preparations for veterinary use, chemical reagents for veterinary purposes, enzymes for veterinary purposes, diagnostic preparations for veterinary purposes, veterinary vaccines; hygienic products, namely, skin cleansing solutions for medical use; dietetic substances for medical use, namely, diet pills, diet capsules, and diet drinks; baby food; poultices; wound dressings; dental poultices; dental mold poultices; disinfectants for home use; products for the destruction of harmful animals, namely, insecticides and pesticides; fungicides; herbicides.</p> <p>Class 32: Beers; mineral waters; carbonated beverages; non-alcoholic beverages, namely, water, flavored water; fruit beverages and juices; syrups for making beverages.</p>
	4717350	Apr. 7, 2015	<p>Class 5: Electrolyte replacement solutions for oral rehydration.</p> <p>Class 32: Oral rehydration beverages, namely, sports drinks containing electrolytes.</p>
	4717232	Apr. 7, 2015	<p>Class 5: Electrolyte replacement solutions for oral rehydration.</p> <p>Class 32: Oral rehydration beverages, namely, sports drinks containing electrolytes.</p>

1 36. True and correct copies of the registrations for the Marks are attached hereto
 2 as **Exhibit 1**.

3 37. Since long prior to Defendants' acts complained of herein and through the
 4 present, Plaintiffs' have made continuous use of the Marks in connection with genuine
 5 U.S. Electrolit® products and plan to do so in the future.

6 38. The registrations for the Marks are valid, subsisting and incontestable and
 7 constitute conclusive evidence of Plaintiffs' exclusive right to use the Marks for the goods
 8 specified in the registrations. 15 U.S.C. §§ 1065, 1115(b).

9 39. Plaintiffs use distinctive packaging (the "Trade Dress") to distinguish its
 10 genuine U.S. Electrolit® products in the marketplace. Sueros owns, and CAB is the
 11 exclusive licensee in the United States with respect to, the Electrolit Trade Dress, which
 12 consists of, but is not limited to the packaging illustrated below:



23 40. Plaintiffs have used the Trade Dress pictured above, or in a similar fashion,
 24 on genuine U.S. Electrolit® product since at least as early as 2014 and through the present
 25 date. Plaintiffs are currently using the Electrolit Trade Dress in commerce and in
 26 connection with their sale of genuine U.S. Electrolit® and plan to continue such use in the
 27 future.

1 41. The Trade Dress is arbitrary, non-functional and distinctive.

2 42. The Marks and Trade Dress have been extensively and continuously used
3 by Plaintiffs and are inherently distinctive and/or have become distinctive through the
4 acquisition of secondary meaning.

5 43. Since the formation of CAB in 2014, tens of millions of dollars have been
6 spent in the United States to advertise and promote genuine U.S. Electrolit®. The Marks
7 and Trade Dress are prominently displayed in Plaintiffs' advertising and promotional
8 materials.

9 44. Plaintiffs advertise and promote genuine U.S. Electrolit® through various
10 means, including electronic media, print media, promotional and point-of-sale materials,
11 presence at live events and through various social media channels, including Facebook
12 and Instagram.

13 45. CAB's sale of Electrolit® in the United States has been tremendously
14 successful because of its efforts to ensure the high quality of Electrolit®, as well as its
15 substantial investment in the marketing and promotion of Electrolit® to customers.

16 46. The Marks and Trade Dress are inherently distinctive, and as a result of
17 Plaintiffs' extensive sales, promotion and advertising of genuine U.S. Electrolit®, the
18 Marks and Trade Dress have become famous among the consuming public of California
19 and the United States and represent valuable goodwill to Plaintiffs. The Marks and Trade
20 Dress are also famous among the general consuming public in California.

21 47. The use of the Marks dates back to the 1950s and the Marks have been in
22 continuous, exclusive use since that time. CAB began using the Marks and Trade Dress
23 in the United States in 2014 and since then has spent tens of millions of dollars on
24 advertising and promotion of the Marks and Trade Dress among the general consuming
25 public in the United States.

26 48. As a result of Plaintiffs' efforts, in addition to the popularity of the Electrolit
27 product itself, the Marks and Trade Dress have become household names among the

1 general consuming public in the California and the United States as a whole. The
 2 exponential growth of sales of genuine U.S. Electrolit and total sales volume also
 3 evidence the fame of the Marks and Trade Dress.

4 49. Common to every genuine Electrolit® product sold in the U.S. is the quality
 5 control standards established by its manufacturer, maintained by Sueros and contractually
 6 mandated by CAB and each of its sub-distributors that dictate the conditions for
 7 manufacture, distribution, storage and sale of genuine U.S. Electrolit® products
 8 throughout authorized supply chains.

9 50. Sueros only authorizes genuine U.S. Electrolit® for sale in the United States,
 10 and only by CAB. The Unauthorized Electrolit being sold by Defendants is not authorized
 11 to be sold in the United States.

12 ***Unauthorized Electrolit is Materially Different***

13 51. Genuine U.S. Electrolit® is different from Unauthorized Electrolit in many
 14 respects. These differences are material to consumers.

15 52. Genuine U.S. Electrolit® is different from Unauthorized Electrolit at least in
 16 that the formula of ingredients in genuine U.S. Electrolit® is different. For example,
 17 Unauthorized Electrolit contains artificial flavors and additives not found in Genuine U.S.
 18 Electrolit®. This difference is material to consumers.

19 53. Genuine U.S. Electrolit® and its label is registered as a beverage with the
 20 FDA, but Unauthorized Electrolit is not. This difference is material to consumers.

21 54. Genuine U.S. Electrolit® is different from Unauthorized Electrolit at least in
 22 that the labelling of genuine U.S. Electrolit® is different. These differences are material
 23 to consumers. As one example, the plastic laminated label of Genuine U.S. Electrolit®
 24 contains “Nutrition Facts” in English in compliance with FDA requirements.

25 55. As another example, the label of genuine U.S. Electrolit® is written in
 26 English, whereas the label of Unauthorized Electrolit is written in Spanish. One aspect of
 27 this difference is that the freshness date printed on genuine U.S. Electrolit® is identified

1 with the English words “USE BY,” whereas Unauthorized Electrolit contains no such
2 “USE BY” identification. These differences are material to consumers.

3 56. As another example, the units of measure used on the label of genuine U.S.
4 Electrolit® are in the imperial system that U.S. consumers recognize and that is required
5 by some U.S. state laws, whereas the Unauthorized Electrolit contains measurements in
6 the metric system, which many U.S. consumers are unfamiliar with. This difference is
7 material to consumers.

8 57. As another example, the names of the flavors of genuine U.S. Electrolit®
9 that appear on the product labels are unique to genuine U.S. Electrolit® and do not appear
10 on Unauthorized Electrolit. Relatedly, the flavors of Unauthorized Electrolit are not
11 authorized for sale in the United States by Sueros, CAB or the FDA and do not appear in
12 the English language on the labels of Unauthorized Electrolit. This difference is material
13 to consumers.

14 58. As another example, the label of genuine U.S. Electrolit® identifies a U.S.
15 toll free telephone number for consumers to call in case of questions or concerns, whereas
16 the Unauthorized Electrolit does not identify such a U.S. toll free number. This difference is
17 material to consumers.

18 59. As another example, the label of genuine U.S. Electrolit® reports different
19 caloric values than does the label on the Unauthorized Product. This difference is
20 material to consumers.

21 60. As another example, the label of Genuine U.S. Electrolit® contains bottle
22 deposit refund information relevant to and required by certain U.S. states. The
23 Unauthorized Electrolit does not contain such bottle deposit refund information on its
24 label. This difference is material to consumers.

25 61. As another example, the label of all Unauthorized Electrolit products
26 contains a medical claim that the product prevents or treats dehydration. The label states:
27 “Solución esterilizada de electrolitos orales indicada para prevenir o tratar la

1 deshidratación.” However, the label of genuine U.S. Electrolit® does not contain such a
 2 claim, nor could it under FDA regulations. This difference is material to consumers.

3 62. As another example, the label of all Unauthorized Electrolit products
 4 contains a medical indication for use of the product to prevent and treat certain medical
 5 conditions. The label states: “INDICACIONES: Electrolit® es una solución rehidratante
 6 para la prevención y el tratamiento del desequilibrio hidroelectrolítico ocasionado por el
 7 exceso de calor, desgaste físico intenso, insolación, resaca, vómito y/o diarrea. Electrolit®
 8 además de proporcionar glucosa, previene o trata la deshidratación mediante la reposición
 9 de líquidos y electrolitos contenidos en su fórmula.” However, the label of genuine U.S.
 10 Electrolit® does not contain such an indication, nor could it under FDA regulations. This
 11 difference is material to consumers.

12 63. As another example, the label of genuine U.S. Electrolit® contains the
 13 statement “SWEETENED WITH Glucose,” whereas the Unauthorized Electrolit does not
 14 contain such a statement. This difference is material to consumers.

15 64. As another example, the label of genuine U.S. Electrolit® contains the
 16 statement “GLUTEN free,” whereas the labels of the Unauthorized Electrolit do not
 17 contain such a statement. This difference is material to consumers.

18 65. As another example, the label of genuine U.S. Electrolit® contains a listing
 19 of the ingredients in the product, whereas the labels of the Unauthorized Electrolit do not
 20 contain such a listing. This difference is material to consumers.

21 66. As another example, some of the Unauthorized Electrolit contains additional
 22 labels that are not found on genuine U.S. Electrolit®. This difference is material to
 23 consumers.

24 67. In addition, the pricing of genuine U.S. Electrolit® is different from the
 25 Unauthorized Electrolit. This difference is material to consumers.

26 68. Consumers consider each of these differences between genuine U.S.
 27 Electrolit® and Unauthorized Electrolit (collectively, the “Material Differences”) to be

1 important to a decision about whether to purchase the products yet are unaware that the
 2 Unauthorized Electrolit products lack the features only present in genuine U.S.
 3 Electrolit®.

4 69. Based on “gold standard” expert survey data, one or more of these Material
 5 Differences have been found by a Federal court to be material to consumers’ purchasing
 6 decisions. *Sueros y Bebidas Rehidratantes, S.A. de C.V. v. Indus. Enters., LLC*, No. H-
 7 22-1304, 2023 U.S. Dist. LEXIS 156155, at *2 (S.D. Tex. Sep. 5, 2023).

8 70. The Court found that U.S. Electrolit® is different from Unauthorized
 9 Electrolit in ways that are significant to customers’ and consumers’ purchasing decisions.
 10 It found that many of the Material Differences are relevant to consumers’ purchasing
 11 decisions and are material such that the use of the Marks in connection with the sale of
 12 Unauthorized Electrolit would likely cause confusion. Ultimately the court held that the
 13 sale, offering for sale, distribution or advertising of Unauthorized Electrolit in the United
 14 States constituted trademark infringement, false designation of origin, unfair competition
 15 and resulted in unjust enrichment. The court further held that as a result of the sale and
 16 marketing of Unauthorized Electrolit, Plaintiffs were harmed, including harm to their
 17 goodwill in the Marks, harm to their reputation, price erosion, and lost sales and profits
 18 and that Plaintiffs would be irreparably harmed by continued sale of Unauthorized
 19 Electrolit. The court granted permanent injunctive relief as well.

20 71. Similarly, the United States District Court for the Central District of
 21 California issued a temporary restraining order, preliminary injunction, and permanent
 22 injunction that enjoined an entity called Monarcas Candies from selling Unauthorized
 23 Electrolit in the United States and awarded over \$3,000,000 in damages and awarded
 24 attorneys’ fees. *Rehidratantes v. Candies*, 2023 U.S. Dist. LEXIS 205648 (C.D. Cal.
 25 Nov. 13, 2023); *Rehidratantes v. Candies*, 2024 U.S. Dist. LEXIS 33822 (C.D. Cal. Feb.
 26, 2024).

27 72. The Unauthorized Electrolit imported, advertised, distributed, offered for
 28

1 sale and/or sold by Defendants lack one or more of these Material Differences.

2 73. Plaintiffs do not sell, authorize for sale or cause to be sold any
 3 nonconforming products that lack any of the Material Differences within the United
 4 States. In fact, as will be discussed below, Plaintiffs actively police the market to search
 5 for and remove nonconforming products that lack the Material Differences such as the
 6 Unauthorized Electrolit sold by unauthorized sellers including Defendants.

7 ***Defendants and Their Unlawful Conduct***

8 74. Defendants operate businesses importing, purchasing, selling, and
 9 distributing Unauthorized Electrolit. The individual Defendants – Eduardo Lopez,
 10 Ivonne Munoz, Manuel Vazquez and Yvonne Mesinas – also personally perform these
 11 actions.

12 75. Defendants are not authorized distributors of CAB.

13 76. Defendants are aware that their sales of Unauthorized Electrolit infringe
 14 upon Plaintiffs' trademarks and are otherwise unlawful, yet have taken no action to stop
 15 their unlawful behavior.

16 77. Upon information and belief, Defendants were informed that the
 17 Unauthorized Electrolit did not comply with FDA regulations and was materially
 18 different than genuine U.S. Electrolit. Defendants were informed that the Unauthorized
 19 Electrolit that it is offering to sell and sell is not authorized to be sold in the United States,
 20 is not FDA compliant, and violates a number of U.S. laws. Defendants were also aware
 21 that the sales of this Unauthorized Electrolit causes a likelihood of confusion, and is
 22 unlawful.

23 78. Despite knowing this Defendants, upon information and belief, continued to
 24 knowingly and willfully sell Unauthorized Electrolit in bad faith, resulting in a likelihood
 25 of confusion among retailers and end consumers and unfair competition.

26 79. For example, Defendants Eduardo Lopez, Ivonne Munoz and Manuel
 27 Vazquez use Plaintiff's Marks and Trade Dress to sell Unauthorized Electrolit to

1 individuals and companies in California and throughout the country. At times, upon
 2 information and belief, these sales were conducted under the guise and name of various
 3 of their corporate entities as alter egos of themselves.

4 80. As one example, upon information and belief, Defendants Eduardo Lopez
 5 and Manuel Vazquez conduct sales of Unauthorized Electrolit through their alter ego
 6 Defendant Surtimex Global, Inc. Upon information and belief, Defendant Surtimex
 7 Global, Inc. is engaged in importing, purchasing, selling, and distributing Unauthorized
 8 Electrolit.

9 81. For example, Defendant Surtimex Global, Inc. sold over \$1,618,000 worth
 10 of Unauthorized Electrolit to Monarcas Candies.

11 82. Defendants Eduardo Lopez and Manuel Vazquez are the alter ego of
 12 Defendant Surtimex Global, Inc. at least because there is such a unity between them that
 13 there is no separation and because holding only Surtimex Global Inc. liable for the
 14 tortious acts complained of herein would result in an injustice. For example, in addition
 15 to committing tortious acts themselves as described above, upon information and belief,
 16 as owners, managers and/or members of Surtimex Global Inc., Defendants Eduardo
 17 Lopez and Manuel Vazquez have diverted profits from their companies to themselves for
 18 their personal use and has used their companies for their personal purposes.

19 83. As another example, upon information and belief, Defendants Eduardo
 20 Lopez and Manuel Vazquez conduct sales of Unauthorized Electrolit through their alter
 21 ego Defendant Distribuidora Vitian, S.A. de C.V.

22 84. Upon information and belief, Defendant Distribuidora Vitian, S.A. de C.V.
 23 is engaged in importing, purchasing, selling, and distributing Unauthorized Electrolit.

24 85. For example, publicly available records from the Mexican Export
 25 Pedimentos database show over \$1,561,400 worth of Unauthorized Electrolit imported
 26 by Defendant Distribuidora Vitian, S.A. de C.V. from Mexico. Upon information and
 27 belief, this product was imported by Defendant Distribuidora Vitian, S.A. de C.V. to be

1 unlawfully sold in the United States. As an example, publicly available records from the
 2 Mexican Export Pedimentos database show over \$1,216,900 worth of such sales of
 3 Unauthorized Electrolit to Defendant Yvonne Mesinas.

4 86. Defendants Eduardo Lopez and Manuel Vazquez are the alter ego of
 5 Defendant Distribuidora Vitian, S.A. de C.V. at least because there is such a unity
 6 between them that there is no separation and because holding only Distribuidora Vitian,
 7 S.A. de C.V. liable for the tortious acts complained of herein would result in an injustice.
 8 For example, in addition to committing tortious acts themselves as described above, upon
 9 information and belief, as owners, managers and/or members of Distribuidora Vitian,
 10 S.A. de C.V., Defendants Eduardo Lopez and Manuel Vazquez have diverted profits from
 11 their companies to themselves for their personal use and has used their companies for
 12 their personal purposes.

13 87. As another example, upon information and belief, Defendants Eduardo
 14 Lopez and Manuel Vazquez conduct sales of Unauthorized Electrolit through their alter
 15 ego Defendant V&S Investment Group.

16 88. Upon information and belief, Defendant V&S Investment Group is engaged
 17 in importing, purchasing, selling, and distributing Unauthorized Electrolit.

18 89. For example, publicly available records from the Mexican Export
 19 Pedimentos database show over \$101,900 worth of Unauthorized Electrolit imported by
 20 Defendant V&S Investment Group from Mexico to its 9740 Alburstis Ave., Santa Fe
 21 Springs, California 90670 address. Upon information and belief, this product was
 22 imported by Defendant V&S Investment Group to be unlawfully sold in the United States.
 23 As an example, V&S Investment Group sold over \$72,300 worth of Unauthorized
 24 Electrolit to Monarcas Candies in California.

25 90. Defendants Eduardo Lopez and Manuel Vazquez are the alter ego of
 26 Defendant V&S Investment Group at least because there is such a unity between them
 27 that there is no separation and because holding only V&S Investment Group liable for

1 the tortious acts complained of herein would result in an injustice. For example, in
 2 addition to committing tortious acts themselves as described above, upon information and
 3 belief, as owners, managers and/or members of V&S Investment Group, Defendants
 4 Eduardo Lopez and Manuel Vazquez have diverted profits from their companies to
 5 themselves for their personal use and has used their companies for their personal
 6 purposes.

7 91. As another example, upon information and belief, Defendants Eduardo
 8 Lopez and Ivonne Munoz conducted sales of Unauthorized Electrolit through their alter
 9 ego Defendant Surtimex LLC.

10 92. Upon information and belief, Defendant Surtimex LLC is engaged in
 11 importing, purchasing, selling, and distributing Unauthorized Electrolit.

12 93. For example, publicly available records from the Mexican Export
 13 Pedimentos database show over \$84,900 worth of Unauthorized Electrolit imported by
 14 Defendant Surtimex, LLC from Mexico to its 9740 Alburtis Ave., Santa Fe Springs,
 15 California 90670 address. Upon information and belief, this product was imported by
 16 Defendant Surtimex, LLC to be unlawfully sold in the United States. As one example of
 17 such a sale, Defendant Surtimex, LLC sold Unauthorized Electrolit to Monarcas Candies
 18 in California and 2 Amigos Distributions, LLC in Atlanta, Georgia.

19 94. Defendants Eduardo Lopez and Ivonne Munoz are the alter ego of
 20 Defendant Surtimex LLC at least because there is such a unity between them that there
 21 is no separation and because holding only Surtimex LLC liable for the tortious acts
 22 complained of herein would result in an injustice. For example, in addition to committing
 23 tortious acts themselves as described above, upon information and belief, as owners,
 24 managers and/or members of Surtimex LLC, Defendants Eduardo Lopez and Ivonne
 25 Munoz have diverted profits from their company to themselves for their personal use and
 26 has used their companies for their personal purposes.

27 95. As another example, upon information and belief, Defendant Manuel
 28

1 Vazquez conducted sales of Unauthorized Electrolit through his alter ego Defendant
 2 Leni's Industries, Inc.

3 96. Upon information and belief, Defendant Leni's Industries, Inc. is engaged
 4 in importing, purchasing, selling, and distributing Unauthorized Electrolit.

5 97. For example, publicly available records from the Mexican Export
 6 Pedimentos database show over \$15,600 worth of Unauthorized Electrolit imported by
 7 Defendant Leni's Industries, Inc. from Mexico to its 1540 Beach St., Montebello,
 8 California 90640 address. Upon information and belief, this product was imported by
 9 Defendant Leni's Industries, Inc. to be unlawfully sold in the United States. As one
 10 example of such a sale, Defendant Leni's Industries, Inc. sold Unauthorized Electrolit to
 11 Monarcas Candies in California.

12 98. Defendant Manuel Vazquez is the alter ego of Defendant Leni's Industries,
 13 Inc., at least because there is such a unity between them that there is no separation and
 14 because holding only Leni's Industries, Inc. liable for the tortious acts complained of
 15 herein would result in an injustice. For example, in addition to committing tortious acts
 16 himself as described above, upon information and belief, as owner, manager and/or
 17 member of Leni's Industries, Inc., Defendant Manuel Vazquez has diverted profits from
 18 Leni's Industries, Inc. to himself for personal use and has used Leni's Industries, Inc. for
 19 his personal purposes.

20 99. Upon information and belief, Defendant Yvonne Mesinas is engaged in
 21 importing, purchasing, selling, and distributing Unauthorized Electrolit.

22 100. For example, publicly available records from the Mexican Export
 23 Pedimentos database show over \$1,237,400 worth of Unauthorized Electrolit imported
 24 by Defendant Yvonne Mesinas from Mexico, some to her 12116 Alpine Avenue,
 25 Lynwood, California 90262 address. Upon information and belief, this product was
 26 imported by Defendant Yvonne Mesinas to be unlawfully sold in the United States. As
 27 one example of such a sale, Defendant Yvonne Mesinas sold over \$243,800 worth of
 28

1 Unauthorized Electrolit to Monarcas Candies in California.

2 101. In addition to Defendants Eduardo Lopez, Ivonne Munoz, Yvonne Mesinas,
 3 and Manuel Vazquez, identified by name herein, on information and belief, additional
 4 persons and entities whose identities are presently unknown are involved in the
 5 distribution and sale of Unauthorized Electrolit. Plaintiffs intend to amend this pleading
 6 to identify these additional persons and entities by name as their identities are revealed
 7 during the course of discovery.

8 ***Harms Caused by Defendants' Actions***

9 102. Plaintiffs have suffered and continue to suffer irreparable harm from
 10 Defendants' actions.

11 103. First, Defendants' activities jeopardize CAB's relations with its authorized
 12 sub-distributors. CAB has invested significant time and capital developing its
 13 relationships with its authorized sub-distributors. Those relationships are reciprocal—
 14 CAB asks a great deal from its authorized sub-distributors in terms of marketing,
 15 monitoring, sales reporting, quality control and more, and in exchange offers important
 16 benefits including, above all, the knowledge that its authorized distributor cannot be
 17 underbid on genuine Electrolit®, which is only authorized for sale by CAB. CAB's
 18 authorized sub-distributors are less likely to accept this arrangement—or may be tempted
 19 to cut costs by skimping on quality-control procedures critical to the Electrolit® brand—
 20 if Defendants are repeatedly able to obtain lower-cost but confusingly similar
 21 Unauthorized Goods and underbid authorized sub-distributors on supply contracts. Put
 22 simply, on information and belief, Defendants sell Unauthorized Electrolit to U.S.
 23 retailers and end-consumers at prices below what CAB is able to sell genuine U.S.
 24 Electrolit at, and in other instances sells Unauthorized Electrolit to retailers at prices
 25 below what CAB's authorized sub-distributors sell genuine U.S. Electrolit for. As a
 26 result, several of CAB's authorized sub-distributors have stated that they may stop selling
 27 genuine U.S. Electrolit® purchased from CAB because these sub-distributors cannot

1 compete against the low prices offered by infringing gray market resellers of
2 Unauthorized Electrolit such as Defendants. As a result, CAB's ability to expand its
3 market will be severely impacted.

4 104. Second, Defendants' activities jeopardize Plaintiffs' delicate pricing
5 mechanisms. Electrolit is marketed and sold to an enormous variety of customers in
6 markets all over the world. This heterogeneity requires non-uniform pricing in order to
7 compete in particularly cost-sensitive markets. Defendants, by illicitly importing
8 Unauthorized Electrolit into the United States and marketing it against Plaintiff's genuine
9 U.S. Electrolit® product force Plaintiffs into an unsustainable race to the bottom and
10 jeopardize their ability to price their products fairly. Worse, once such price erosion
11 becomes prevalent, it will prove impossible as a practical matter to raise prices back to
12 pre-erosion levels, leading to diminished profits for Plaintiffs even after Defendants'
13 infringement stops.

14 105. Defendants deliberately lead customers to believe that the Unauthorized
15 Electrolit they sell is the same as the genuine U.S. Electrolit® that is formulated for the
16 U.S. market, even though Unauthorized Electrolit contains a different formulation that
17 poses risks for unsuspecting United States consumers. Additionally, Defendants'
18 acquisition and sale of Unauthorized Electrolit hinders Plaintiffs' ability to track its
19 products, thereby potentially endangering the public by preventing Plaintiffs from
20 resolving quality problems and recalling defective products. As Defendants have
21 deliberately marketed its Unauthorized Electrolit in a misleading fashion, customers
22 would be led to believe that Plaintiffs actions—rather than Defendants' acquisition,
23 storage, and shipping of materially different products—led to the defect. This would
24 hugely jeopardize Plaintiffs' commercial goodwill and brand reputation, and causes
25 irreparable harm for which there is no adequate remedy at law.

26 106. CAB also loses direct revenue every time a bottle of Unauthorized Electrolit
27 is sold by Defendants in the United States in lieu of a bottle of genuine U.S. Electrolit®
28

that CAB would have sold but for the Defendants' actions.

107. CAB has faced pressure from its authorized sub-distributors to sell genuine U.S. Electrolit® at lower prices so that the authorized sub-distributors can compete with the lower prices offered by infringing unauthorized resellers such as Defendants for Unauthorized Electrolit.

108. Moreover, CAB has been forced to expend a significant amount of money to combat the flood of Unauthorized Electrolit that has appeared on United States store shelves. Plaintiffs have previously engaged in similar activities to police the use of the Marks and Trade Dress. For example, over the past several years CAB has monitored complaints and tips regarding the sale of Unauthorized Electrolit by retailers and wholesalers and engaged counsel to send cease and desist letters to these infringers to stop the spread of these infringing—and in many cases counterfeit—products.

COUNT I – FEDERAL TRADEMARK INFRINGEMENT

(15 U.S.C. § 1114)

(Against All Defendants)

109. Plaintiffs hereby restate and re-allege the allegations set forth in the preceding paragraphs and incorporate them by reference as if fully set forth herein.

110. As alleged more fully herein, the USPTO has granted federal trademark registrations for the trademarks consisting of or incorporating the Marks, which are owned by Sueros. CAB is the exclusive licensee of the Marks in the U.S.

111. Defendants' unauthorized sales, offers for sale, distribution or advertising of Unauthorized Electrolit containing the Marks to unsuspecting consumers is a violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

112. Defendants' sale, offer for sale, distribution or advertising of Unauthorized Electrolit has created a substantial likelihood of confusion or caused mistake or deception in consumers' minds because the Unauthorized Electrolit is materially different from genuine U.S. Electrolit®.

1 113. Defendants' unauthorized use of the Marks constitutes use in commerce,
2 without the consent of Plaintiffs, of a reproduction, copy, or colorable imitation of the
3 Marks and Trade Dress in connection with the sale, offer for sale, distribution or
4 advertising of products and/or services. Such use is likely to cause confusion or mistake,
5 or to deceive customers, and therefore infringes the Marks and Trade Dress, in violation
6 of 15 U.S.C. § 1114(1).

7 114. Defendants were informed that the Unauthorized Electrolit that it is selling
8 "is not authorized for sale in the United States", "violates a number of U.S. laws", is "not
9 FDA compliant" and that its actions constitute deliberate, knowing and willful
10 infringement of Plaintiffs' rights in the Marks and Trade Dress with bad faith intent to
11 cause confusion and trade on Plaintiffs' goodwill.

12 115. As a result of Defendants' continued sale or advertisement of Unauthorized
13 Electrolit, Plaintiffs have suffered and will continue to suffer irreparable harm to their
14 goodwill and reputation with their retail and end-consumer customers, at least as a result
15 of the confusion about and dissatisfaction with the Unauthorized Electrolit.

16 116. Plaintiffs have no adequate remedy at law for the above immediate and
17 continuing harm. Plaintiffs have been, and absent injunctive relief will continue to be,
18 irreparably harmed by Defendants' actions.

19 117. As a direct and proximate result of Defendants' conduct, Plaintiffs have
20 suffered damages to the Marks and Trade Dress and other damages in an amount to be
21 proved at trial.

22 118. Plaintiffs are entitled to, among other things, an order enjoining and
23 restraining Defendants from selling any Electrolit branded products, for the Unauthorized
24 Electrolit to be destroyed pursuant to 15 U.S.C. § 1118, as well as actual damages,
25 Defendants' profits, the costs of the action, reasonable attorneys' fees and any other
26 remedies provided by 15 U.S.C. § 1116 and 1117.

27 **COUNT II – INDIRECT AND CONTRIBUTORY TRADEMARK**
28

INFRINGEMENT

(Against All Defendants)

119. Plaintiffs hereby restate and re-allege the allegations set forth in the preceding paragraphs and incorporate them by reference as if fully set forth herein.

120. Defendants intentionally induced other parties to infringe the Marks and Trade Dress.

121. Defendants continued to supply their product to persons whom they knew or had reason to know were infringing the Marks and Trade Dress.

122. Defendants failed to take reasonable precautions against the occurrence of third parties' infringement of the Marks and Trade Dress under circumstances in which the infringing conduct could reasonably be anticipated.

123. Defendants' actions constitute indirect and contributory infringement of Plaintiffs' exclusive rights in the Marks and Trade Dress.

124. In addition, Defendants are liable for indirect infringement because, upon information and belief, Defendants provide Unauthorized Electrolit that bear Plaintiffs Marks to retailers who infringe the mark by reselling those products to unsuspecting and confused customers and that otherwise are likely to cause confusion. At the time Defendants provided these tools of infringement to retailers, Defendants knew or could reasonably be expected to know of Plaintiffs Marks and that such tools of infringement would be used by retailers to cause confusion, tread upon Plaintiffs' goodwill in the Marks and otherwise unfairly compete with Plaintiffs.

125. Defendants continue to supply Unauthorized Electrolit to its customers even after it knew or had reason to know that those customers were engaging in trademark infringement.

126. Upon information and belief, Defendants' conduct leads to post-sale confusion by causing consumers who purchased Unauthorized Electrolit from Defendants' customers to believe that they are purchasing genuine Electrolit.

127. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered irreparable harm to the valuable Marks and Trade Dress and their reputation in the industry. Unless Defendant is restrained from further indirect and contributory infringement of the Marks and Trade Dress, Plaintiffs will continue to be irreparably harmed.

128. Plaintiffs have no adequate remedy at law that will compensate for the continued and irreparable harm they will suffer if Defendants' acts are allowed to continue.

129. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered damages to the valuable Marks and Trade Dress and other damages in an amount to be proved at trial.

130. Plaintiffs are entitled to, among other things, an order enjoining and restraining Defendants from selling any Electrolit branded products, for the Unauthorized Electrolit to be destroyed pursuant to 15 U.S.C. § 1118, as well as actual damages, Defendants' profits, the costs of the action, reasonable attorneys' fees and any other remedies provided by 15 U.S.C. § 1116 and 1117.

COUNT III – FALSE DESIGNATION OF ORIGIN

(15 U.S.C. § 1125(a)(1)(A))

(Against All Defendants)

131. Plaintiffs hereby restate and re-allege the allegations set forth in the preceding paragraphs and incorporate them by reference as if fully set forth herein.

132. In violation of Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A), Defendants, independently and in conspiracy with others, in connection with the Unauthorized Electrolit, used in commerce a word, term, name, symbol or device, or any combination thereof, or a false designation of origin, false or misleading description of fact or false or misleading representation of fact, which was or is likely to cause confusion or to cause mistake, or to deceive as to an affiliation, connection or

1 association with Plaintiffs as to the origin, sponsorship, or approval of Defendants'
2 Unauthorized Electrolit by Plaintiffs.

3 133. The purchasing public is likely to attribute to Plaintiffs, Defendants' use of
4 the Marks as a source of origin, sponsorship, approval and/or authorization for the
5 products Defendants sell and, further, purchase products from Defendants in the
6 erroneous belief that Defendants are authorized by, associated with, sponsored by, or
7 affiliated with Plaintiffs, when Defendants are not.

8 134. Defendants' actions have been conducted intentionally and willfully, with
9 the express intent to cause confusion and mistake, to deceive and mislead the purchasing
10 public, to trade upon the high-quality reputation of Plaintiffs, and/or to improperly
11 appropriate to themselves the valuable Marks.

12 135. Defendants' unlawful conduct has deceived, and is likely to continue to
13 deceive, a material segment of the consumers to whom Defendants have directed their
14 marketing activities. Defendants' false and/or misleading statements are material in that
15 they are likely to influence consumers to purchase products from Defendants and cause
16 competitive and other commercial injuries to Plaintiffs. Defendants have made, and
17 continue to make, false and/or misleading statements with the intent to cause confusion
18 and mistake, or to deceive the public into believing that Defendants are authorized by,
19 associated with, sponsored by, or affiliated with Plaintiffs, when Defendants are not.
20 Plaintiffs have been damaged as a result.

21 136. As a result of Defendants' misconduct, Plaintiffs have suffered, and will
22 continue to suffer, irreparable harm to its goodwill and reputation with both its customers
23 and its authorized distributors.

24 137. Plaintiffs have no adequate remedy at law for the above immediate and
25 continuing harm. Plaintiffs have been, and absent injunctive relief will continue to be,
26 irreparably harmed by Defendants' actions.

27 138. Plaintiffs are entitled to, among other things, an order enjoining and
28

1 restraining Defendants from selling any Electrolit branded products, for the Unauthorized
 2 Electrolit to be destroyed pursuant to 15 U.S.C. § 1118, as well as actual damages,
 3 Defendants' profits, the costs of the action, reasonable attorneys' fees and any other
 4 remedies provided by 15 U.S.C. § 1116 and 1117.

5 **COUNT IV – TRADEMARK DILUTION**

6 **(15 U.S.C. § 1125(c))**

7 **(Against All Defendants)**

8 139. Plaintiffs hereby restate and re-allege the allegations set forth in the
 9 preceding paragraphs and incorporate them by reference as if fully set forth herein.

10 140. The Marks are famous and distinctive, and are widely recognized by the
 11 general consuming public of the United States as a designation of source of genuine U.S.
 12 Electrolit®.

13 141. The Marks became famous source indicators for Electrolit products long
 14 before Defendants commenced their infringing activities.

15 142. Defendants' acts as described herein began after the Marks became famous
 16 and are likely to and have tarnished Plaintiffs' valuable business reputation and goodwill
 17 and are likely to blur the distinctiveness of the famous Marks.

18 143. Defendants' acts are likely to cause and have caused dilution by tarnishment
 19 and blurring of the famous Marks in violation of Section 43(c) of the Lanham Act, 15
 20 U.S.C. § 1125(c).

21 144. On information and belief, Defendants' sale, offering for sale, distribution,
 22 and/or advertising of Unauthorized Electrolit in the United States have been committed
 23 deliberately and willfully, with knowledge of Plaintiffs' exclusive rights and goodwill in
 24 the Marks and with a bad faith intent to cause dilution of the Marks.

25 145. Defendants' acts greatly and irreparably damage Plaintiffs and will continue
 26 to do damage Plaintiffs unless restrained by this Court; wherefore, Plaintiffs are without
 27 an adequate remedy at law. If not restrained, Defendants will have unfairly derived and

1 will continue to unfairly derive income, profits, and business opportunities as a result of
 2 their acts of dilution. Accordingly, Plaintiffs are entitled to, among other things, an order
 3 enjoining and restraining Defendants from selling any Electrolit branded products, for the
 4 Unauthorized Electrolit to be destroyed pursuant to 15 U.S.C. § 1118, as well as actual
 5 damages, Defendants' profits, the costs of the action, reasonable attorneys' fees and any
 6 other remedies provided by 15 U.S.C. § 1116 and 1117.

7 **COUNT V – TRADEMARK DILUTION**

8 (Cal. Bus. & Prof. Code § 14247)

9 **(Against All Defendants)**

10 146. Plaintiffs hereby restate and re-allege the allegations set forth in the
 11 preceding paragraphs and incorporate them by reference as if fully set forth herein.

12 147. The acts complained of herein constitute trademark dilution in violation of
 13 California Trademark Dilution (Cal. Bus. & Prof. Code § 14247).

14 148. The Marks are famous and distinctive and are widely recognized by the
 15 public, including throughout California or in a geographic area in this state as a
 16 designation of source of genuine U.S. Electrolit®.

17 149. Defendants' acts as described herein began after the Marks became famous
 18 and are likely to and have tarnished Plaintiffs' valuable business reputation and goodwill
 19 and are likely to blur the distinctiveness of the famous Marks.

20 150. On information and belief, Defendants' sale, offering for sale, distribution,
 21 and/or advertising of Unauthorized Electrolit have been committed deliberately and
 22 willfully, with knowledge of Plaintiffs' exclusive rights and goodwill in the Marks and
 23 with a bad faith willful intent to cause dilution of the Marks.

24 151. Defendants' acts greatly and irreparably damage Plaintiffs and will continue
 25 to do damage Plaintiffs unless restrained by this Court; wherefore, Plaintiffs are without
 26 an adequate remedy at law. If not restrained, Defendants will have unfairly derived and
 27 will continue to unfairly derive income, profits, and business opportunities as a result of

1 their acts of dilution. Accordingly, Plaintiffs are entitled to, among other things, an order
 2 enjoining and restraining Defendant from selling any Electrolit branded products, for the
 3 Unauthorized Electrolit, an award of Defendants' profits, Plaintiffs' reasonable attorneys'
 4 fees and any other remedies provided under the law.

5 **COUNT VI – UNFAIR COMPETITION**

6 (Cal. Bus. Prof. Code § 17200 et seq.)

7 **(Against All Defendants)**

8 152. Plaintiffs hereby restate and re-allege the allegations set forth in the
 9 preceding paragraphs and incorporate them by reference as if fully set forth herein.

10 153. Defendants have violated 15 U.S.C. § 1114 and California Business &
 11 Professions Code § 14245 by using the Marks in commerce in connection with the sale,
 12 offering for sale, distribution, and advertising of goods, in a manner likely to cause
 13 confusion, mistake, or deception, without consent of the owner.

14 154. Defendants have also violated 15 U.S.C. § 1125(a) by using the Marks in
 15 commerce in a manner likely to cause confusion, mistake, and deception as to the
 16 connection between Defendants and Plaintiffs and as to the origin, sponsorship, or
 17 approval of Defendants' products for sale in the United States by Plaintiffs.

18 155. Defendants have also violated 15 U.S.C. § 1125(c) and California Business
 19 & Professions Code § 14247 by using the Marks in commerce in a manner likely to cause
 20 dilution by blurring and by tarnishment of the Marks.

21 156. This conduct, together with the Defendants' other acts alleged herein,
 22 constitute unfair, unlawful, and fraudulent business acts and practices under California
 23 Business and Professions Code § 17200, because such acts are forbidden by various state
 24 and federal laws and are unscrupulous, unfair, and injurious to Plaintiffs. Defendants'
 25 acts have irreparably damaged Plaintiffs and will continue to do so unless restrained by
 26 this Court, and Plaintiffs are without an adequate remedy at law.

27 157. In further violation of Cal. Bus. Prof. Code § 17200 et seq., Defendants

1 engaged in unfair competition by engaging in false, misleading or deceptive acts or
 2 practices in connection with their sale, offer for sale, distribution or advertising of
 3 Unauthorized Electrolit.

4 158. In further violation Defendants have engaged in a number of deceptive
 5 practices including misrepresenting the source of goods it sells, misrepresenting the
 6 approval, ingredients, uses or benefits of goods or services, and misrepresenting the
 7 affiliation of another.

8 159. As a direct and proximate result of Defendants' unfair competition,
 9 Plaintiffs have suffered irreparable harm to the valuable Marks and Trade Dress and their
 10 reputation in the industry. Unless Defendants' conduct is restrained, Plaintiffs will
 11 continue to be irreparably harmed.

12 160. Plaintiffs have no adequate remedy at law that will compensate for the
 13 continued and irreparable harm they will suffer if Defendants' acts are allowed to
 14 continue.

15 161. As a direct and proximate result of Defendants' unfair competition,
 16 Plaintiffs have suffered damages, including lost profits and damages to the valuable
 17 Marks and Trade Dress and other damages in an amount to be proved at trial.

18 162. Plaintiffs should also be entitled to punitive damages and its attorneys' fees
 19 and costs.

20 **COUNT VII – COMMON LAW TRADEMARK INFRINGEMENT**
 21 **(Against All Defendants)**

22 163. Plaintiffs hereby restate and re-alleges the allegations set forth in the
 23 preceding paragraphs and incorporate them by reference as if fully set forth herein.

24 164. The acts complained of herein constitute trademark infringement in
 25 violation of the common law of the State of California and elsewhere.

26 165. As a direct and proximate result of Defendants' conduct, Plaintiffs have
 27 suffered damages to the Marks and Trade Dress and other damages in an amount to be

proved at trial.

166. Plaintiffs are entitled to, among other things, an order enjoining and restraining Defendants from selling any Electrolit branded products, for the Unauthorized Electrolit, an award of Defendants' profits, Plaintiff's reasonable attorneys' fees and any other remedies provided for under the law.

COUNT VIII – COMMON LAW UNFAIR COMPETITION

(Against All Defendants)

167. Plaintiffs hereby restate and re-allege the allegations set forth in the preceding paragraphs and incorporate them by reference as if fully set forth herein.

168. The acts complained of herein constitute unfair competition in violation of the common law of the State of California and elsewhere.

169. As a direct and proximate result of Defendants' unfair competition, Plaintiffs have suffered irreparable harm to the valuable Marks and Trade Dress and their reputation in the industry. Unless Defendants' conduct is restrained, Plaintiffs will continue to be irreparably harmed.

170. Plaintiffs have no adequate remedy at law that will compensate for the continued and irreparable harm they will suffer if Defendants' acts are allowed to continue.

171. As a direct and proximate result of Defendants' unfair competition, Plaintiffs have suffered damages, including lost profits and damages to the valuable Marks and Trade Dress and other damages in an amount to be proved at trial.

COUNT IX – UNJUST ENRICHMENT

(Against All Defendants)

172. Plaintiffs hereby restate and re-allege the allegations set forth in the preceding paragraphs and incorporate them by reference as if fully set forth herein.

173. By selling the Unauthorized Electrolit bearing Plaintiffs' valuable trademarks, Defendants have been unjustly enriched to Plaintiffs' detriment in violation

1 of the common law of California and elsewhere.

2 174. Under principles of equity, Plaintiffs are entitled to damages, restitution
 3 and/or disgorgement of Defendants' ill-gotten gains.

4 **COUNT X – CONTRIBUTORY UNFAIR COMPETITION**

5 **(Against All Defendants)**

6 175. Plaintiffs hereby restate and re-allege the allegations set forth in the
 7 preceding paragraphs and incorporate them by reference as if fully set forth herein.

8 176. The actions by Defendants and their customers constitute false and
 9 misleading descriptions of fact, misrepresentations of fact, or designation of origin
 10 concerning the products bearing the Marks and are likely to cause confusion or misstate
 11 as to Defendants' affiliation, connection, or association with Plaintiffs or likely to cause
 12 confusion as to Plaintiffs' approval for Defendants or their customers to all products
 13 bearing the Marks.

14 177. The actions by Defendants and their customers in advertising and promoting
 15 the Unauthorized Electrolit products misrepresents the nature, characteristics, qualities,
 16 and geographic origin of the Unauthorized Electrolit sold by Defendants and their
 17 customers.

18 178. Defendants and their customers are using the Marks with full knowledge
 19 that those Marks are associated exclusively with Plaintiffs.

20 179. Defendants encouraged and facilitated the infringing conduct by their
 21 customers.

22 180. After being on notice of their customers' infringing conduct, Defendants
 23 failed to take actions to halt the infringement.

24 181. Defendants continue to supply Unauthorized Electrolit to infringing
 25 customers even after they knew or had reason to know that those customers were
 26 engaging in trademark infringement.

27 182. Defendants' acts of unfair competition are willful and deliberate and with
 28

1 the intent to reap the benefit of Plaintiffs' goodwill and reputation.

2 183. Defendants' conduct is causing immediate and irreparable injury to
 3 Plaintiffs and to their goodwill and reputation and will continue both to damage Plaintiffs
 4 and to deceive the public unless enjoined by this Court.

5 184. Defendants' acts greatly and irreparably damage Plaintiffs and will continue
 6 to so damage Plaintiffs unless restrained by this Court; wherefore, Plaintiffs are without
 7 an adequate remedy at law. If not restrained, Defendants will have unfairly derived and
 8 will continue to unfairly derive income, profits, and business opportunities as a result of
 9 their acts of unfair competition. Accordingly, Plaintiffs are entitled to, among other
 10 things, an order enjoining and restraining Defendant from selling any Electrolit branded
 11 products, an award of Defendants' profits, Plaintiffs' reasonable attorneys' fees and any
 12 other remedies provided under the law.

COUNT XI – CONTRIBUTORY TRADEMARK DILUTION

(Against All Defendants)

15 185. Plaintiffs hereby restate and re-allege the allegations set forth in the
 16 preceding paragraphs and incorporate them by reference as if fully set forth herein.

17 186. Plaintiffs' Marks are famous and well known through the United States and
 18 California.

19 187. Defendants and their customers' commercial use of Plaintiffs' Marks as
 20 described above has diluted and continues to dilute the distinctive quality of Plaintiffs'
 21 famous Marks by lessening their capacity to identify and distinguish Plaintiffs
 22 exclusively as the source of goods bearing or provided under the mark.

23 188. Defendants and their customers' conduct is in violation of Section 43(c) of
 24 the Lanham Act, 15 USC 1125 (c).

25 189. Defendants encouraged and facilitated the infringing conduct by their
 26 customers.

27 190. After being notified of their customers' infringing activity, Defendants

1 failed to take action to halt the unlawful conduct.

2 191. Defendants have continued to supply Unauthorized Electrolit to customers
 3 even after they knew or had reason to know that those customers were committing
 4 unlawful acts.

5 192. Defendant's conduct is causing immediate and irreparable injury to
 6 Plaintiffs and to their goodwill and reputation and will continue both to damage Plaintiffs
 7 and to deceive the public unless enjoined by this Court.

8 193. Defendants' acts greatly and irreparably damage Plaintiffs and will continue
 9 to so damage Plaintiffs unless restrained by this Court; wherefore, Plaintiffs are without
 10 an adequate remedy at law. If not restrained, Defendants will have unfairly derived and
 11 will continue to unfairly derive income, profits, and business opportunities as a result of
 12 their acts of dilution. Accordingly, Plaintiffs are entitled to, among other things, an order
 13 enjoining and restraining Defendant from selling any Electrolit branded products, an award
 14 of Defendants' profits, Plaintiffs' reasonable attorneys' fees and any other
 15 remedies provided under the law.

COUNT XII – CIVIL CONSPIRACY

(Against All Defendants)

194. Plaintiffs hereby restate and re-allege the allegations set forth in the
 preceding paragraphs and incorporate them by reference as if fully set forth herein.

195. Defendants Eduardo Lopez, Ivonne Munoz, Yvonne Mesinas, and Manuel
 Vazquez, Surtimex LLC, V&S Investment Group, Surtimex Global Inc., Distribuidora
 Vitian, S.A. de C.V., and Leni's Industries, Inc. agreed with, conspired with, solicited
 and encouraged each other to commit a wrongful act.

196. Specifically, for example, upon information and belief, as set forth above,
 the Defendants agreed to and did act together import, offer to sell and sell Unauthorized
 Electrolit in the United States.

197. As a result of Defendants' conspiracy, Plaintiffs were harmed. Examples of

1 such harm are described *supra* in the “Harms Caused by Defendants’ Actions” section of
2 this Complaint.

3 **PRAYER FOR RELIEF**

4 **WHEREFORE**, Plaintiffs pray for judgment as follows:

5 A. For judgment that:

6 1. Defendants have engaged in Federal Trademark Infringement in
7 violation of the Lanham Act (15 U.S.C. § 1114);

8 2. Defendants have engaged in Indirect and Contributory Trademark
9 Infringement;

10 3. Defendants have engaged in False Designation of Origin in violation
11 of 15 U.S.C. § 1125(a)(1)(A);

12 4. Defendants have engaged in direct and contributory Trademark
13 Dilution in violation of 15 U.S.C. § 1125(c);

14 5. Defendants have engaged in direct and contributory Trademark
15 Dilution in violation of Cal. Bus. & Prof. Code § 14247;

16 6. Defendants have engaged in direct and contributory Unfair
17 Competition in violation of Cal. Bus. Prof. Code § 17200 et seq;

18 7. Defendants have engaged in Trademark Infringement in violation of
19 the common law of the State of California;

20 8. Defendants have engaged in Unfair Competition in violation of the
21 common law of the State of California; and

22 9. Defendants have engaged in Unjust Enrichment in violation of the
23 common law of the State of California.

24 B. For preliminary and permanent injunctive relief restraining and enjoining
25 Defendants and all of their agents, servants, employees, successors and assigns, and all
26 persons in active concert or participation with Defendants (or their agents) from:

27 1. Selling, offering to sell, transporting, distributing, marketing,

1 advertising, importing, or purchasing Electrolit branded products that are not authorized
2 by Plaintiffs for sale in the United States market, including but not limited to the
3 Unauthorized Electrolit;

4 2. Using any Electrolit Mark and/or any other confusingly similar
5 designation, alone or in combination with other words, phrases, symbols or designs, in
6 connection with its business, as trademarks, trade names, domain name components or
7 otherwise, to market, advertise, or identify Defendants' goods;

8 3. Otherwise infringing the Marks;

9 4. Representing by any means whatsoever, directly or indirectly, that
10 any products or services offered or provided by Defendants are offered or authorized by
11 Plaintiffs, or from otherwise taking any action likely to cause confusion, mistake, or
12 deception on the part of consumers as to the source or origin of such products or as to any
13 authorization, sponsorship, approval, or affiliation relationship between Defendants and
14 Plaintiffs;

15 5. Affixing, applying, annexing, or using in connection with the
16 manufacture, distribution, marketing, advertising, packaging, sale, and/or offering for
17 sale or other use of any products, a false description or representation, including without
18 limitation words, symbols, photographs, or product representations similar to those used
19 by Plaintiffs, tending to falsely describe or represent such as being those of Plaintiffs;

20 6. Unfairly competing with Plaintiffs in any manner whatsoever or
21 otherwise injuring their business reputation in the manner complained of herein;

22 7. From diluting any of the Marks;

23 8. From assisting, aiding or abetting any other person or business entity
24 in engaging in or performing any of the activities referred to in subparagraphs (B)(1)
25 through (B)(7) above; and

26 9. Engaging in assignments or transfers, formation of new entities or
27 associations or utilization of any other device for the purpose of circumventing or

1 otherwise avoiding the prohibitions set forth in sub-paragraphs (B)(1) through (B)(8)
2 above.

3 C. An order, under 15 U.S.C. §§ 1116 and 1118, requiring Defendants
4 (including its employees and agents) to deliver to Plaintiffs (or allow Plaintiffs to pick
5 up), or requiring to be destroyed, all Unauthorized Electrolit that is in Defendants'
6 possession, custody, or control.

7 D. Directing that Defendants make available to Plaintiffs for review,
8 inspection, and copying all books, records, electronic records (including but not limited
9 to all hard drives on computers and phones used for business purposes and any back up
10 media) and all other documents concerning all transactions relating to the purchase, sale
11 or unauthorized use of products or packaging incorporating the Marks and provide
12 Plaintiff the names, addresses, and all other contact information in its possession for the
13 source(s) of such products and packaging.

14 E. Directing that Defendants produce to Plaintiffs a summary document
15 showing the dates, quantities, names and addresses of all suppliers and customers from
16 whom they have purchased or to whom they have sold any products bearing the Electrolit
17 Marks.

18 F. An order, pursuant to 15 U.S.C. § 1116, requiring Defendants to file with
19 this Court and serve upon Plaintiffs within 30 days after the entry of a preliminary or
20 permanent injunction a report, in writing and under oath, setting forth in detail the manner
21 in which Defendants have complied with the injunction and this Prayer for Relief.

22 G. An order:

23 1. Awarding Plaintiffs three times the profits received by Defendants
24 from the sales and revenues of any kind made as a result of Defendants' sales of
25 Unauthorized Electrolit, and damages that Plaintiffs have suffered as a result of
26 Defendant's sales and marketing of Unauthorized Electrolit (including, but not limited
27 to, Plaintiffs' lost profits, price erosion, and damages awarded pursuant to 15 U.S.C. §

1 1117, trebled);

2 2. Awarding Plaintiffs' attorneys' fees and costs;

3 3. Awarding Plaintiffs damages, attorneys' fees, and costs to the fullest
4 extent provided for by the United States statute and the common law of California,
5 including exemplary and punitive damages;

6 4. Awarding Plaintiffs pre-judgment and post-judgment interest;

7 5. Awarding Plaintiffs exemplary and punitive damages to deter any
8 future willful infringement as the Court finds appropriate;

9 6. Imposing joint and several liability among all Defendants for all sums
10 awarded;

11 7. Awarding Plaintiffs such other and further relief as this Court deems
12 just and equitable.

13 **DEMAND FOR A JURY TRIAL**

14 Plaintiffs demand a trial by jury on all issues so triable.

16 DATED: November 21, 2024

17 Respectfully submitted,

18 **ALSTON & BIRD LLP**

19 /s/ Charles W. Cox
20 Charles W. Cox

21 *Counsel for Plaintiffs Sueros & Bebidas*
22 *Rehidratantes, S.A. de C.V. and CAB*
Enterprises, Inc